

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Anne Quinlan,**

Petitioner-Appellant,

**v.**

**Polk County Board of Review,**

Respondent-Appellee.

**ORDER**

**Docket No. 09-77-1512  
Parcel No. 090/04330-000-000**

On October 21, 2010, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Anne Quinlan, was self-represented. The Polk County Board of Review designated Assistant County Attorney David Hibbard as its legal representative. Both parties submitted evidence in support of their position. The Appeal Board having reviewed the entire record, heard the testimony and being fully advised, finds:

***Findings of Fact***

Quinlan is the owner of a residentially classified, single-family residence located at 4255 Foster Drive, Des Moines, Iowa. The property is a two-story home built in 1928, has 2850 square feet of total living area, and a 420 square-foot garage built in 1970. There is a 1205 square-foot basement with no finish. The property is 100% brick exterior, a 348 square-foot enclosed porch, a small 8 foot by 8 foot shed and an additional 12 foot by 20 foot detached garage built in 1970. The site is 23,300 square feet.

Quinlan protested to the Polk County Board of Review regarding the 2009 assessment. The January 1, 2009, total assessment of her property was \$416,100, allocating \$76,900 in land value and \$339,200 in improvement value.

Quinlan's claim was based on the following grounds: 1) that the assessment is not equitable as compared with the assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a); and 2) that the property is assessed for more than the value authorized under Iowa Code section 441.37(1)(b), asserting the correct value is \$387,000. The Board of Review denied Quinlan's protest.

In her appeal to this Board, Quinlan did not mark the box for any specific ground, however, her plain statement asserts the same grounds sought at the Board of Review.

Quinlan offered the listing of a neighboring property similar to hers as evidence of inequity. The property located at 4244 Foster Drive was listed through Next Generation Realty for \$474,900. This listing was withdrawn from the market, according to Quinlan, in February 2009. She was unaware of any offers. We do not believe a withdrawn listing with no known offers is credible evidence of Quinlan's property value, as the listing may have been over-priced or subject to poor marketing, among other things.

Quinlan offered no evidence in regards to her market value claim under section 441.37(1)(b).

The Board of Review offered an appraisal completed by Cris Swaim of Swaim Appraisal Services. The appraisal has an effective date of January 1, 2009, and Swaim included five properties for comparison. One of the comparables had an offer and was pending as of December 2008, however, did not close until February 2009. Swaim explained in both his testimony and written analysis the property would have been listed and pending sale as of January 1, 2009, and therefore was a reasonable property to analyze. The unadjusted sale prices of the five properties range from \$359,000 to \$490,000. After adjustments, the sale prices range from roughly \$397,000 to \$479,500. Three of the five sales have adjusted sale prices indicating a value of roughly \$420,000 to \$440,000. Swaim selected a final opinion of \$430,000 for the subject property, based solely on the sales comparison approach.

After reviewing all the evidence, we find insufficient evidence has been presented to support Quinlan's assertion the subject property is inequitably assessed compared to other like properties, or that it is assessed for more than authorized by law.

### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the*



*City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

*Id.* at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

Additionally, the Iowa Supreme Court has interpreted “representative number of comparable properties” to be more than one property. *Maxwell v. Shiver*, 257 Iowa 575, 581, 133 N.W.2d 709, 712 (1965). This “statutory requirement is both a jurisdictional prerequisite and an evidentiary requirement for bringing a claim of inequitable or discriminatory assessment before the board.” *Montgomery Ward Dev. Corp. by Ad Valorem Tax, Inc. v. Cedar Rapids Bd. of Review*, 488 N.W.2d 436, 441 (Iowa 1992). Furthermore, the word “shall” as used in the statute makes the listing of comparable properties mandatory as failing to do so would “directly frustrate[] the sole function of the requirement, which is to enable the board to make a preliminary determination on the matter of equitability of assessment.” *Id.* Quinlan offered only a single property for equity comparison, and failed to demonstrate inequity with that single property.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Quinlan failed to offer any sales or market data to support her assertion the subject property is assessed for more than authorized by law. The Board of Review provided an appraisal

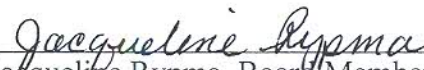
indicating a January 1, 2009, market value of \$430,000, which indicates the January 1, 2009, assessment is not assessed for more than authorized by law.

The evidence does not support the claims brought before this Board. Therefore, we affirm the January 1, 2009, assessment of the property located at 4255 Foster Drive, Des Moines, Iowa, as determined by the Polk County Board of Review.

THE APPEAL BOARD ORDERS the assessment of 4255 Foster Drive, Des Moines, Iowa, as of January 1, 2009, set by the Polk County Board of Review, is affirmed.

Dated this 3 day of Nov., 2010

  
Karen Oberman, Board Chair

  
Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>11.3</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier <input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	